

# **Exhibit B**

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 01 CR 567-2  
 )  
FRANK RODRIGUEZ, ) Chicago, Illinois  
 ) April 30, 2002  
Defendant. ) 10:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JAMES F. HOLDERMAN

APPEARANCES:

For the Plaintiff: HON. PATRICK J. FITZGERALD  
United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 353-6117  
BY: MR. CHRISTOPHER D. NIEWOEHNER

For the Defendant: VILLALOBOS & ASSOCIATES  
BY: MR. RAUL VILLALOBOS  
1620 West 18th Street  
Chicago, Illinois 60608  
(312) 666-9982

Also Present: Mr. Jeffrey Granich

COLLEEN M. CONWAY, CSR, CRR  
219 South Dearborn Street  
Room 2144-A  
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1 (Proceedings in open court. Defendant not present in open  
2 court).

3 THE CLERK: 01 CR 567, United States versus Rodriguez.

4 MR. NIEWOEHNER: Good morning, your Honor.

5 Chris Niewoehner on behalf of the government.

6 MR. VILLALOBOS: Attorney Raul Villalobos on behalf of  
7 Mr. Frank Rodriguez.

8 MR. GRANICH: Your Honor, my name is Jeffrey Granich.  
9 I'd be seeking leave to file my appearance on this matter today.

10 MR. VILLALOBOS: Judge --

11 THE COURT: Is Mr. Rodriguez here?

12 MR. VILLALOBOS: Yes, he is, Judge.

13 MR. GRANICH: Yes, Judge.

14 THE COURT: I don't see him.

15 THE MARSHAL: Counsel had requested a few more minutes  
16 to talk with him.

17 MR. GRANICH: I was speaking to him, your Honor, about  
18 my --

19 THE COURT: You are whom again?

20 MR. GRANICH: My name is Jeffrey Granich. I was  
21 recently retained.

22 THE COURT: Mr. Granich, are you a member of the trial  
23 bar here?

24 MR. GRANICH: Yes, I am, Judge.

25 THE COURT: Okay. When did you become a member of the

1 trial bar?

2 MR. GRANICH: In 1992, Judge.

3 THE COURT: 1982? If I --

4 MR. GRANICH: '92.

5 THE COURT: I'm sorry?

6 MR. GRANICH: '92.

7 THE COURT: '92.

8 THE CLERK: Can I have a spelling?

9 MR. GRANICH: Sure, G-r-a-n-i-c-h.

10 THE CLERK: And your first name?

11 MR. GRANICH: Jeffrey.

12 THE COURT: We're not talking about the general bar.

13 We're talking about the trial bar.

14 MR. GRANICH: Judge, it's been some time since I've  
15 been in federal court. I know that I'm a member of the general.

16 I believe I am a member of the trial bar.

17 THE COURT: If you're not a member of the trial bar,  
18 you cannot represent a criminal defendant in this district.

19 So you became a member of the general bar when?

20 MR. GRANICH: In '92.

21 THE COURT: In 1992?

22 MR. GRANICH: Yes.

23 THE COURT: All right. And you would have had to have  
24 become a member --

25 MR. GRANICH: I was sworn in in this building in 1992.

1 THE COURT: That would be a general bar swearing-in,  
2 and you would have had to have been a member of the trial bar  
3 some time after that after you filed an application setting  
4 forth your experience and paid your initial trial bar dues.

5 THE CLERK: I have him as a member of the general bar  
6 but not the trial bar.

7 THE COURT: My clerk has pulled up the computer, and if  
8 you are not a member of the trial bar, you cannot under our  
9 local rules come in to represent a criminal defendant.

10 So I have to deny your request.

11 MR. GRANICH: Thank you, Judge.

12 THE COURT: If you want to --

13 MR. GRANICH: If there is any --

14 THE COURT: -- petition to become a member of the trial  
15 bar at some point, then I'll certainly reconsider, but I can't  
16 do anything today --

17 MR. GRANICH: I understand, your Honor.

18 THE COURT: -- because it would be violative of the  
19 local rules.

20 MR. GRANICH: I understand, your Honor.

21 I apologize. I thought that I was a member of the  
22 trial bar as well.

23 Thank you.

24 THE COURT: Okay. All right.

25 Well, what's the status?

1 MR. VILLALOBOS: That's a good -- Judge, maybe we could  
2 have another brief recess so I could talk to my client in view  
3 of what has transpired.

4 THE COURT: Okay. How much time do you need?

5 MR. VILLALOBOS: Ten minutes.

6 THE COURT: All right. Take a ten-minute recess.

7 Thank you.

8 (Recess. Defendant present in open court.)

9 MR. NIEWOEHNER: Good morning, your Honor.

10 Chris Niewoehner on behalf of the government. Oh,  
11 excuse me.

12 THE CLERK: 01 CR 567, United States versus Rodriguez.

13 MR. NIEWOEHNER: Forgive me, your Honor.

14 Chris Niewoehner on behalf of the government.

15 MR. VILLALOBOS: Attorney Raul Villalobos on behalf of  
16 Mr. Frank Rodriguez. Judge --

17 THE COURT: All right. Good morning.

18 Good morning, Mr. Rodriguez.

19 THE DEFENDANT: Good morning, your Honor.

20 THE COURT: What's the status?

21 MR. NIEWOEHNER: Your Honor, we have a signed plea  
22 agreement which I'll tender to the Court.

23 THE COURT: All right. Mr. Rodriguez, I understand  
24 from this document that just was handed up to me that it's your  
25 intention to offer a plea of guilty to Count 1; is that correct?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Now, before I can accept your plea of  
3 guilty, I must determine several things. I must determine that  
4 you're competent to plead at this time, that you have had the  
5 assistance of counsel, that you understand your trial rights,  
6 you understand the nature of the charges against you, that your  
7 plea is a voluntary act on your part, and that there is a  
8 factual basis for your plea.

9 Do you understand what I have explained?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. I must put you under oath and  
12 ask you questions about this matter, but before I do that, I  
13 want to make sure that you understand that you may consult with  
14 your lawyer while I'm asking you these questions and I'll  
15 interrupt the proceedings at any point to allow you to speak  
16 with your lawyer merely upon your request.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand also that any false  
20 answers to any questions that I ask you could subject you to a  
21 possible prosecution for perjury or giving of a false statement?  
22 And in giving truthful answers to some of my questions, you will  
23 be waiving your right not to testify against yourself, some of  
24 your answers will be incriminating, and you will have to admit  
25 your guilt? Do you understand what I have explained?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: All right. I'm going to ask my clerk to  
3 swear in Mr. Rodriguez.

4 THE CLERK: Raise your right hand.

5 (Defendant duly sworn.)

6 THE COURT: All right. Sir, would you state your full  
7 name.

8 THE DEFENDANT: Frank Rodriguez.

9 THE COURT: All right. And how old are you, sir?

10 THE DEFENDANT: Twenty-seven years old.

11 THE COURT: And where do you live?

12 THE DEFENDANT: Chicago.

13 THE COURT: All right. Whereabouts in Chicago?

14 THE DEFENDANT: 4820 North Avers.

15 THE COURT: All right. And are you married, sir?

16 THE DEFENDANT: No, no, I'm not.

17 THE COURT: How far did you go in school?

18 THE DEFENDANT: Twelfth grade.

19 THE COURT: All right. And did you graduate from high  
20 school?

21 THE DEFENDANT: No, I did not.

22 THE COURT: All right. What kind of work have you done  
23 in the last three years?

24 THE DEFENDANT: Basically worked at car dealerships and  
25 delivery driver and copier delivery and copier technician.



1 THE COURT: All right. And are you in good physical  
2 health?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Have you taken any drugs or  
5 alcoholic beverages within the last 24 hours?

6 THE DEFENDANT: No, I have not.

7 THE COURT: All right. Have you ever been under the  
8 care of a doctor or in a hospital for a mental condition or  
9 addiction to narcotic drugs?

10 THE DEFENDANT: No.

11 THE COURT: All right. Let me ask counsel if either of  
12 you have any doubt as to Mr. Rodriguez's competence to plead  
13 guilty at this time?

14 MR. VILLALOBOS: No, Judge. I have talked to Mr.  
15 Rodriguez at length about this plea. I believe he is competent  
16 to plead, undertake this plea agreement.

17 MR. NIEWOEHNER: Your Honor, the only thing is what Mr.  
18 Villalobos last Thursday raised, that his client was excited.

19 I think if Mr. Villalobos is not concerned, then the  
20 government has no further information that would make us  
21 question his competency.

22 THE COURT: All right. Mr. Villalobos, you made a  
23 comment that was kind of, in my opinion, a little bit out of the  
24 blue, that was never anticipated from seeing Mr. Rodriguez over  
25 the time that he's been a defendant in front of me that you

1 thought he needed to be examined for competency.

2 Now you have no problem with his competency?

3 MR. VILLALOBOS: That's -- Judge, I think the part that  
4 I was alluding to was the fact that we were having somewhat of a  
5 difficult time preparing for the trial and discussing his  
6 analysis of how the trial should be conducted, and we could not  
7 come to agreement as to that aspect of the trial.

8 THE COURT: Mr. Rodriguez had a certain view as to how  
9 the trial should be conducted?

10 MR. VILLALOBOS: That is correct, Judge.

11 THE COURT: Was that view contrary to your view?

12 MR. VILLALOBOS: It'd be contrary to my advice on how  
13 it should be conducted if this went to trial.

14 THE COURT: Was it a logical view?

15 MR. VILLALOBOS: I believe that based on my experience  
16 as a trial lawyer that my viewpoint would result -- would be  
17 better helping him in his trial. His view is different than  
18 that of his father's. So I said that basically that the way we  
19 conducted trials here, certain evidence could not be admissible,  
20 I tried to explain to Mr. Rodriguez.

21 THE COURT: Well, people have differences of opinion.  
22 That doesn't mean one of the people who differs in his opinion  
23 is incompetent. But you took it to a whole new level that I  
24 certainly never anticipated, and certainly from viewing and  
25 speaking with Mr. Rodriguez today and speaking with Mr.

1 Rodriguez every time he's been in court, I never thought that  
2 anyone would believe that somehow he's not competent.

3 And so you're saying that you raised his competency  
4 because he disagreed with your trial strategy?

5 MR. VILLALOBOS: That was part of it, Judge, yes.

6 THE COURT: Mr. Rodriguez, I want to hear anything you  
7 want to say. You just raised your hand, and I want --

8 THE DEFENDANT: Yes.

9 THE COURT: -- to hear --

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: -- what you want to say, yes.

12 THE DEFENDANT: Okay, your Honor. Like I said previous  
13 when I spoke in front of you, the reason why I was getting so  
14 loud -- and I believe what happened between my defense attorney  
15 and I was something between he and I.

16 Now, why I believe that based on what my arguments were  
17 to him, he went back and told prosecution that I was crazy and I  
18 was going off with him, this and that, but the reason why I was  
19 so upset with him, as your Honor knows, four times he came to  
20 see me, he refused to give me a copy of my indictment and he  
21 also refused to give me what the evidence was towards my case.  
22 And I asked him four times that he visited me, and he refused to  
23 give them to me. I asked him, "Do you not work for me?" He  
24 said, "I do not work for you."

25 Later, the second time he visited me, he said, "Well"

1 -- my father wanted to fire him. He said, "Well, your father  
2 wants to fire me, but, you know, you're my client, you know.  
3 So, you know, I really want, you know, to listen to you, not to  
4 your father, because you're my client." And I said, "Wait a  
5 minute. Didn't I" -- "didn't we" -- "you told me last week you  
6 weren't" -- "you didn't work for me, but yet I can't" -- "you're  
7 supposed to be my defense attorney, but yet you're supposed to  
8 give me what the evidence is which I have no documents of."  
9 Even to this day now I have no documents, no nothing of my case  
10 which I asked him for.

11 THE COURT: Okay.

12 THE DEFENDANT: And that's the reason why I was, you  
13 know, getting excited and arguing, because -- I mean, I believe  
14 I -- it's somewhat of the law that they're supposed to give you,  
15 you know, any type of document pertaining to your case, and I  
16 never received anything, even when I asked him, and that's the  
17 reason why I got excited with him, and I don't know what the  
18 reason was for it.

19 THE COURT: Mr. Villalobos, what about your client's  
20 comments?

21 MR. VILLALOBOS: Judge, there are certain documents  
22 that I did not -- that I -- we discussed but I did not give him  
23 copies of.

24 THE COURT: What are those documents?

25 MR. VILLALOBOS: Judge, the documents regarding one of

1 the government witnesses.

2 THE COURT: Well, did you give him a copy of the  
3 indictment?

4 MR. VILLALOBOS: Judge, I think he gave me a copy of  
5 the indictment. Well, his father gave me a copy of documents,  
6 that he had the indictment.

7 THE COURT: My question to you, sir, is: Did you give  
8 him a copy of the indictment?

9 MR. VILLALOBOS: No, I did not.

10 THE COURT: All right. And the reason you did not give  
11 him a copy of the indictment was because you believed he already  
12 had a copy of the indictment when --

13 MR. VILLALOBOS: Well, we went through the charges of  
14 the indictment, the counts, two counts of the indictment. I  
15 didn't --

16 THE COURT: That wasn't my question.

17 MR. VILLALOBOS: I did not give him a physical  
18 document.

19 THE COURT: And the reason you didn't give him a copy  
20 of the indictment was that you thought he already had a copy of  
21 the indictment?

22 MR. VILLALOBOS: No, Judge, I -- the reason I didn't  
23 give it to him on that day was because I didn't have it and --

24 THE COURT: I'm not talking about any particular day.  
25 I'm talking about ever.

1 Did you ever give him a copy of the indictment?

2 MR. VILLALOBOS: No, I did not.

3 THE COURT: And what is the reason, I will ask a  
4 non-leading question since you don't seem to want to answer my  
5 leading question, what is the reason that you didn't give him a  
6 copy of the indictment?

7 MR. VILLALOBOS: Judge, he did not request one until  
8 just a little while ago. We were --

9 THE COURT: So when I asked at the initial arraignment  
10 did he have a copy of the indictment, that was an incorrect  
11 statement when I was told he was given a copy of the indictment?

12 MR. NIEWOEHNER: Your Honor, if I might, there was a  
13 different lawyer who was representing him, Frank Tedesso. I had  
14 given him a copy of the indictment.

15 THE COURT: Okay. Well, Mr. Villalobos --

16 MR. VILLALOBOS: Yes.

17 THE COURT: -- give him a copy of the indictment.

18 MR. VILLALOBOS: That's fine.

19 THE COURT: A criminal defendant is entitled to a copy  
20 of his indictment. Mr. Rodriguez is absolutely correct on that  
21 point. It seems to me that it shows substantial competency on  
22 his part.

23 MR. NIEWOEHNER: Your Honor, I have a copy of the  
24 indictment which I'll tender to defense counsel.

25 THE COURT: All right.

1 MR. VILLALOBOS: Here's a copy of the indictment.

2 (Discussion between defendant and his attorney.)

3 THE COURT: Mr. Villalobos, I didn't say read it to  
4 him. I said give it to him.

5 MR. VILLALOBOS: Yes, sir.

6 THE COURT: All right. So, Mr. Rodriguez, what else  
7 didn't he give you?

8 THE DEFENDANT: Just basically the copy of the  
9 indictment. I mean --

10 THE COURT: Okay. And there were some other papers?

11 THE DEFENDANT: Yeah, but --

12 THE COURT: The discovery?

13 THE DEFENDANT: Yeah, I never got the lab results or no  
14 discovery, and I asked him for it, like I said, four times, and  
15 every time he came back -- the thing is to me it was kind of --  
16 to me, I mean, like you say, I have to be honest, but to me, I  
17 believe -- you know, I can't tell anybody their job, but I  
18 believe as somebody who has a title of a very important role as  
19 an attorney, to be more professional, whereas to -- if I asked  
20 you -- if you came to see me four times, and each time I asked  
21 you, "Next time you come, could you please bring me the" --  
22 "any, you know, whatever evidence may be, whether it'd be  
23 discovery or lab results," and every time he came back, "Well, I  
24 forgot it in the office. I forgot it in the office," I mean, it  
25 seems to me if you visit your client, you're supposed to write



1 things down. And I asked him several times to write stuff down.  
2 He refused to.

3 THE COURT: Mr. Villalobos?

4 MR. VILLALOBOS: Judge, like I said, the last time he  
5 gave -- asked me for the indictment, it was today.

6 Other requests that I -- he did not make the requests  
7 of me, and that's part of the disagreement that we had, is that  
8 he would tell me certain things that I -- that he said, and I  
9 disagreed with him, and then we'd get into discussions about  
10 how -- about what was requested.

11 THE COURT: All right. Well, I don't want to get in to  
12 that.

13 MR. VILLALOBOS: I know.

14 THE COURT: Did the government turn over any discovery  
15 material in this case to Mr. Rodriguez's counsel?

16 MR. NIEWOEHNER: The government has always turned it  
17 over to counsel of record. Much of it was turned over to Jim  
18 Graham, who is I believe Mr. Villalobos' predecessor, and some  
19 to Frank Tedesso.

20 I'd have to go look at my records to see what precisely  
21 was -- I turned over to Mr. Villalobos, but, yes, the government  
22 has turned over quite a bit of discovery in this case, your  
23 Honor.

24 THE COURT: All right. Mr. Villalobos, have you  
25 provided Mr. Rodriguez with a copy of the discovery the



1 government gave to you on this case?

2 MR. VILLALOBOS: I did not, Judge.

3 The documents that I received from Mr. Rodriguez were  
4 the discovery that I received from the government.

5 THE COURT: So did you receive any discovery material  
6 from the government, Mr. Villalobos?

7 MR. VILLALOBOS: Yes, I did. No, I -- well, through  
8 Mr. Graham.

9 THE COURT: I'm going to ask that question again, and  
10 I'm going to ask you to answer the question that I posed.

11 MR. VILLALOBOS: I'm just --

12 THE COURT: Did you receive any discovery material from  
13 the government?

14 MR. VILLALOBOS: Yes, I did.

15 THE COURT: Okay. Did you receive that discovery  
16 material directly from the government or through Mr. Rodriguez's  
17 prior counsel?

18 MR. VILLALOBOS: The majority through Mr. Graham, the  
19 prior counsel, and Mr. Rodriguez himself.

20 THE COURT: Did you receive any of the discovery  
21 material that you received from the government directly from the  
22 government?

23 MR. VILLALOBOS: Yes, I did.

24 THE COURT: Did you turn that discovery material that  
25 you received directly from the government over to Mr. Rodriguez

1 so he could review it?

2 MR. VILLALOBOS: Yes, I did.

3 THE COURT: Mr. Rodriguez, did you get discovery  
4 material from Mr. Villalobos?

5 THE DEFENDANT: No, I did not.

6 THE COURT: Okay. Mr. Villalobos, did you give to  
7 Mr. Rodriguez the discovery material that you had received from  
8 Mr. Graham?

9 MR. VILLALOBOS: No, no, your Honor, because -- well,  
10 no.

11 THE COURT: Why not?

12 MR. VILLALOBOS: Because Mr. Rodriguez had that same  
13 material. And I got -- received what Mr. Graham had given him,  
14 he gave it to me, and then I received Mr. Graham's packet, which  
15 was identical.

16 THE DEFENDANT: Your Honor, if I may?

17 THE COURT: You may.

18 THE DEFENDANT: Okay. According to what he -- he's --  
19 the reason why I was asking for the papers, the copy of the  
20 evidence, lab results and so forth, is because when he came to  
21 see me, the things I read previously from the paperwork that  
22 Graham had were different from the things he was speaking to me  
23 of. So, therefore, I must know, you know, where my previous  
24 attorney wasn't -- you know, as if when it was -- it wasn't what  
25 we had on paperwork, according to what you're, you know,

1 explaining to me. That's why I asked him, you know, "Where is a  
2 copy of, you know, what are you speaking of?" You know, that's  
3 why I asked him before the time he came to visit me I needed to  
4 see the copy of my -- whatever it may be, evidence or lab  
5 results or so forth, and he refused to give it to me.

6 And I reminded him every time he left, you know, to  
7 write it down, and he refused to write it down. For what reason  
8 I do not know.

9 THE COURT: Mr. Niewoehner, do you have a record in  
10 your file of the discovery material that you have provided to  
11 the various counsel of Mr. Rodriguez?

12 MR. NIEWOEHNER: I do, your Honor. I have -- I keep a  
13 Bates label, and I -- yes is the --

14 THE COURT: I assumed you did.

15 How difficult would it be to photocopy again all of the  
16 material you provided to the various lawyers who have  
17 represented Mr. Rodriguez?

18 MR. NIEWOEHNER: I have a master set, your Honor, so  
19 it's a relatively easy procedure.

20 THE COURT: Okay. So how long would it take you to do  
21 that?

22 MR. NIEWOEHNER: Because I know of the time  
23 sensitivity, I can go down and in a half an hour to an hour I  
24 would imagine I could get what I have in my master discovery  
25 file, and I can check and see if there's anything that wasn't in

1 it.

2 THE COURT: Okay. Let me ask the marshals who are here  
3 in the courtroom, is there a location that Mr. Rodriguez could  
4 review materials in the marshals' lockup today?

5 THE MARSHAL: Yes, Judge.

6 THE COURT: Okay.

7 I have no doubt that Mr. Rodriguez is competent to  
8 offer a plea of guilty. I want to make sure that he's fully  
9 informed about all the information that he should be informed of  
10 before he offers a plea of guilty. I want to make sure that he  
11 feels that he is fully informed about all the information he  
12 should have before he makes the decision to offer a plea of  
13 guilty. I want to avoid further conflict between he and his  
14 lawyer, if that's possible. I don't want to have to make a  
15 decision as to who's telling the truth between defendant or  
16 counsel.

17 I just want to make sure that Mr. Rodriguez has all the  
18 information that he should have, and so I'm going to ask  
19 government counsel to make a photocopy, deliver that photocopy  
20 to the marshals' lockup, I'm going to ask the marshals to  
21 provide that information that government counsel brings to the  
22 marshals' lockup to Mr. Rodriguez, and we will set the case for  
23 a further status.

24 Let me just ask the marshals, can Mr. Rodriguez take  
25 the legal documents or at least can the legal documents that Mr.

1 Rodriguez receives be transported to the MCC?

2 THE MARSHAL: Absolutely, Judge.

3 THE COURT: Okay. All right.

4 You know, I won't set the case for status. We are set  
5 for trial. If after reviewing the materials Mr. Rodriguez  
6 desires to persist in his plea of guilty, I would ask that he do  
7 so and let his lawyer know and then we will set a further date.  
8 If he desires he does not want to persist in a plea of guilty,  
9 we are set for trial.

10 When is the trial preparation date?

11 MR. NIEWOEHNER: It was actually yesterday, your Honor.  
12 We --

13 THE COURT: It was yesterday.

14 MR. NIEWOEHNER: The government was going to -- because  
15 it was this morning, was not going to -- was going to sort of  
16 let it lie, as it were.

17 THE COURT: Okay. All right. Well, perhaps we then  
18 better set the case for further report on status tomorrow so  
19 that we will know.

20 Let me ask what your respective schedules are at 2:00  
21 o'clock tomorrow afternoon?

22 MR. NIEWOEHNER: Your Honor, I'm supposed to be in a  
23 sentencing hearing before Judge Grady at 2:00.

24 THE COURT: All right. And when is that sentencing  
25 hearing going to be over?

1 MR. NIEWOEHNER: Unfortunately, that's going to be, I  
2 would anticipate, several hours.

3 I could get co-counsel if I -- he's not here, he's at a  
4 sentencing hearing before another judge right now, but I could  
5 ascertain whether he's available or whether I could get somebody  
6 else to stand in --

7 THE COURT: Okay.

8 MR. NIEWOEHNER: -- if that's most convenient with your  
9 Honor.

10 THE COURT: All right. Well, 2:00 o'clock would be the  
11 best for me, but I don't want to inconvenience any lawyers, but  
12 I do want to accomplish whatever Mr. Rodriguez wants to  
13 accomplish in this matter.

14 Mr. Villalobos, are you available tomorrow?

15 MR. VILLALOBOS: I am available at 2:00 o'clock.

16 THE COURT: All right. Why don't we set it for 2:00  
17 o'clock. I will just ask government counsel to see if you can  
18 get somebody to cover this. I'd appreciate it.

19 MR. NIEWOEHNER: And, your Honor, just so you're aware,  
20 there are tapes. The one thing I won't be able to duplicate  
21 easily are tapes that were previously given. I'll give the  
22 transcripts that the government has prepared.

23 THE COURT: That would be appropriate.

24 You previously provided the tapes to counsel?

25 MR. NIEWOEHNER: Yes, yes, your Honor.

1 THE COURT: All right. Mr. Villalobos, did you play  
2 those tapes for your client?

3 MR. VILLALOBOS: Yes, I received the tapes, the  
4 government tapes as well as an additional set of tapes which is  
5 identical to the government tapes, for Mr. Rodriguez.

6 THE COURT: So what's the answer to my --

7 MR. VILLALOBOS: Yes.

8 THE COURT: -- question?

9 MR. VILLALOBOS: Yes, I have.

10 THE COURT: Okay. Good.

11 MR. VILLALOBOS: And also transcripts.

12 THE COURT: All right.

13 MR. VILLALOBOS: We also received the transcripts.

14 THE COURT: Yes, just the transcripts, it seems to to  
15 me, to be sufficient, but let me just double-check.

16 Mr. Rodriguez, have you listened to the tapes?

17 THE DEFENDANT: The ones that Graham gave me, yeah, but  
18 the ones told me here, here are some different tapes that he  
19 heard -- he said they were different from the ones I had. So I  
20 don't know what's -- that's why I asked, you know, for the  
21 paperwork and evidence based on what he told me, because I -- I  
22 mean, I had -- Graham gave me six tapes that I heard, and I gave  
23 them to him. He said that he didn't hear them tapes. He heard  
24 some other tapes that the government gave him, that they're  
25 supposed to be the same ones but some are more clear, I don't



1 know, the quality, some --

2 THE COURT: Okay. All right. Well, let me just ask,  
3 to make sure that the content of the tapes are the same, the  
4 government has transcripts of the tape-recorded conversations  
5 that are in the government's possession that contain the  
6 statements of the defendant?

7 MR. NIEWOEHNER: That's correct, your Honor.

8 THE COURT: All right. And you are going to provide  
9 those with the photocopying that you're going to do now?

10 MR. NIEWOEHNER: That's exactly right, your Honor.

11 THE COURT: Okay. All right. Those are the  
12 transcripts of the tapes that the government has.

13 So I don't know what Mr. Villalobos has, but what you  
14 are going to get, Mr. Rodriguez, is what the government has in  
15 transcript form, okay?

16 THE DEFENDANT: Thank you, your Honor.

17 THE COURT: Thank you.

18 MR. NIEWOEHNER: Thank you, your Honor.

19 MR. VILLALOBOS: Thank you.

20 (Proceedings concluded.)

C E R T I F I C A T E

21 I, Colleen M. Conway, do hereby certify that the  
22 foregoing is a complete, true, and accurate transcript of the  
23 proceedings had in the above-entitled case before the Honorable  
JAMES F. HOLDERMAN, one of the judges of said Court, at Chicago,  
Illinois, on April 30, 2002.

24 Official Court Reporter  
25 United States District Court  
Northern District of Illinois  
Eastern Division

6/6/02  
Date